

SUMMARY OF PUBLIC COMMENTS - PACIFIC COUNTY SMP

Pacific County (County) adopted Ordinance #2016-036 on September 27, 2016 authorizing submittal of the updated Shoreline Master Program (SMP) to the Department of Ecology (Ecology) for review. The County formally submitted the updated SMP to Ecology in December 2016 and it was determined to be complete by Ecology in a letter dated December 16, 2016. Ecology accepted public comments on the updated SMP between January 23rd and February 22nd, 2017. Notice of the comment period was provided to individuals listed as state, regional or local “interested parties”. Ecology received written¹ comments from XX individuals or organizations as summarized in Table 1. Table 2 provides a summary of issues raised during the comment period as well as a place for the County to insert a response to the issues raised pursuant to WAC 173-26-120(6).

Table 1 (below) lists all the individuals or organizations that provided comment and reference to each particular topic/issue as summarized in Table 3 beginning on page 8.

| TABLE 1: LIST OF COMMENTERS AND WHERE THEIR COMMENTS MAY BE FOUND IN THE COMMENT SUMMARY TABLE | | |
|---|---|---|
| COMMENT NO. | ORGANIZATION - COMMENTER NAME (DATE RECEIVED) | SUMMARY/RESPONSE (TABLE 2– BELOW) |
| 1. | Rob Waltemate (1/4/2017)* ² | E-11 |
| 2. | April Neet (1/5/2017)* | A-6 |
| 3. | Suanne Smith (1/7/2017, 1/18/2017)* | C-1, I-1 |
| 4. | Albert/Judy Franklin (1/17/2017)* | D-12, I-2 |
| 5. | John Francis (1/23/2017 voicemail) | A-5 |
| 6. | Denny Frederick (2/3/2017) | A-7 |
| 7. | Willapa Bay Inc. - Dan Driscoll (2/14/2017, 2/21/2017, 2/22/2017 - 3) | A-3, C-3 |
| 8. | Abi Bradshaw (2/14/2017) | A-3, C-3 |
| 9. | Public Utility District No. 2 - Doug Miller (2/15/2017) | E-32, E-33 |
| 10. | Jim Kepner (2/16/2017, 2/22/2017) | A-10, E-10 |
| 11. | Nat Bocking (2/18/2017) | C-3 |
| 12. | Tani Sutley (2/21/2017) | E-20, E-25 |
| 13. | The Nature Conservancy – Molly Bogeberg (2/21/2017) | A-1, A-11, B-4, D-5, D-9, D-10, D-13, E-9, E-13, E-19, E-21, E-22, E-23, E-26, E-29, E-30, J-1, J-2 |
| 14. | Les Driscoll (2/21/2017 voicemail) | C-3 |
| 15. | Kristine Nevitt (2/21/2017) | A-2 |

¹ Two voicemail messages were transcribed and added to the record.

² * indicates receipt outside comment period

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| 16. | Ross Barkhurst (2/21/2017, 2/22/2017) | A-8, B-2, B-3, D-2, D-3, D-4, D-11, E-15, E-17 |
| 17. | Karen and Bob Boardman (2/22/2017) | A-3, C-3 |
| 18. | Ava Driscoll (2/22/2017) | A-3, C-3 |
| 19. | Linda Engelsiepen (2/22/2017) | C-3 |
| 20. | Taylor Shellfish Farms – Bill Dewey | C-4, E-1, F-5 |
| 21. | Surfrider Foundation – Casey Dennehy (2/22/2017) | A-1, A-4, A-11, B-1, C-5, D-6, D-7, E-13, E-24, E-27 |
| 22. | Futurewise – Tim Trohimovich (2/22/2017) | A-1, A-4, A-11, B-1, C-2, C-5, D-6, D-7, D-8, E-2, E-5, E-6, E-7, E-8, E-13, E-24, E-27, E-28, G-1, G-2, I-3, I-4 |
| 23. | Columbia River Crab Fisherman’s Association - Dale Beasley (2/22/2017) | A-1, A-9, F-1, F-2, F-4 |
| 24. | Pacific Seafood – Anthony J. Dal Ponte (2/22/2017) | C-4, E-3, E-4, E-14, F-3, F-5 |
| 25. | Port of Peninsula – Jay Personius (2/22/2017) | E-12 |
| 26. | Washington Department of Natural Resources – Hugo Flores (2/22/2017) | D-1, E-18, E-31, H-1 |

Please note, the statements below are not the opinions or comments of Ecology, but rather a summary of comments received during the State public comment period.

| TABLE 2: COMMENT SUMMARY/RESPONSE TABLE | | | | |
|---|---|-----------------------|---|---|
| LINE | COMMENT TOPIC | COMMENT NO. (TABLE 1) | ECOLOGY COMMENT SUMMARY | PACIFIC COUNTY RESPONSE |
| General Comments | | | | |
| A-1 | Pacific County SMP Process | 13, 21, 22, 23 | Comments express appreciation for the huge, and successful, effort invested by the Shoreline Planning Committee, the Planning Commission and others in crafting a document that has strong environmental, community and cultural protections. Support is expressly stated for provisions that protect the primary dunes, habitat, vegetation, public access, water quality and the policies and regulations (including those for ocean uses) that help support the natural resource based economy. | Comment noted. No change proposed. Thank you for your support and for your hard work to help us reach this point. |
| A-2 | Pacific County SMP Process – Public Participation | 15 | Although the update process provided a plan for robust public participation and outreach, it was not implemented. As a result, the chance of developing community participation in the implementation of these regulations will be far more difficult. The failure to implement the SMP Public Process Plan as designed effectively denied us the opportunity to have a community dialogue about these changing realities (more regulations, transitioning to a sustainable economy within the SMP parameters, Voluntary Stewardship, restoration and protection of critical habitat) during this major regulatory process. | Comment noted. No change proposed. As required by state law, the SMP was developed with stakeholder input from the very beginning of the comprehensive update process. The County hosted public workshops and open houses for both the Shoreline Inventory and Analysis Report development and the SMP development; regular meetings by a stakeholder committee and subcommittees that were open to the public; and a local SMP adoption process that included nine Planning Commission meetings, including workshops and hearings. |
| A-3 | Pacific County SMP Process – Oysterville Cannery | 7, 8, 17, 18 | Commenters assert the SMP Update process was not a genuine public process and that county staff did not provide fair and equal public notice and public access to the SMP update. This resulted in an invented shoreline designation allowing the county “justification to pick and choose how it wishes to enforce its SMP.” “Pacific County supported the agenda of a favored few to curtail, limit or outright destroy commercial use of the Oysterville cannery buildings.” | Comment noted. No change proposed. Please see the response to A-2, above. Representatives from Oysterville Cannery attended and spoke at numerous meetings throughout the course of the update process, and the Planning Commission discussed the issue of the Oysterville Cannery designation formally during these meetings (see in particular: January 21, 2016 meeting). The final designation for the Oysterville property was not decided out of a desire to “curtail, limit or outright destroy commercial use” of the property, but rather to ensure consistent and appropriate application of designation criteria throughout the County. Mr. Driscoll, owner of Oysterville Sea Farms, expressed that he cannot foresee a future use of the cannery facility that is not |

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| | | | | <p>water-oriented in nature. As such, the Willapa Conservancy provisions in the draft SMP allow for his water-oriented uses to continue. Specifically, under the draft SMP, water-dependent uses are permitted in overwater structures. Water-enjoyment and water-related uses are also permitted, provided that they are associated with a water-dependent use. If Oysterville Sea Farms does not follow these provisions, ongoing, legally established uses are still considered legal nonconforming uses under the SMP and allowed to continue.</p> |
| A-4 | Aquifers | 21, 22 | <p>Both the SMP and Critical Areas Ordinance should emphasize protection of wells and aquifers. Access to fresh clean potable water is a basic requirement. Many water sources in the county are threatened, or may soon be threatened, by saltwater intrusion and deteriorating groundwater conditions.</p> | <p>Comment noted. No change proposed. Revisions were made to the Critical Areas Ordinance, which is adopted by reference in the SMP, to better address potable water. Specifically, critical area reports for critical aquifer recharge areas (CARAs) must now evaluate potential effects related to saltwater intrusion. Designated CARAs include all areas on the Long Beach Peninsula and other areas with highly permeable soils, including stream valleys, beach deposits, and dune sand. Together with the Pacific County Board of Health Ordinance No. 8 (1/11/2011), which addresses water availability; and existing County groundwater monitoring, the County believes that these provisions appropriately protect drinking water.</p> |
| A-5 | Buffers | 5 | <p>Commenter objects to a 200’ buffer – it’s a waste. Buffers don’t help a thing. There’s still fish today though not as many because the hatcheries don’t know how to raise fish anymore. Water temperatures haven’t changed – still about the same as when they logged down to the creek. It’s just a waste of timber ground and land, and if enforced “all that ground should be taken off the tax roll, people should not have to pay for ground that they cannot use.”</p> | <p>Comment noted. No change proposed. In the SMP, 200’ shoreline buffers are applied only in the Natural environment designation. The purpose of this designation is to protect relatively intact areas that are performing important, irreplaceable functions that would be damaged by human activity. The areas designated as Natural in the county do not currently support development, and many of these areas are in public ownership and already protected as Natural Area Preserves, Natural Resource Conservation Areas, or Wildlife Refuges. This approach is well supported by best available science.</p> |

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| A-6 | Coastal Erosion | 2 | Commenter asks if her yard will be fixed after being used as a staging area for the beach erosion control project. Her drive is a muddy swamp, blackberry bushes are smashed and the “beach access is now a nasty mud pit.” | Comment noted. No change proposed. This project was allowed under an emergency exemption. The County is now in conversations with the responsible party regarding the formal shoreline permitting pathway, which is required and which will include conditions addressing staging areas, cleanup, etc. |
| A-7 | Coastal Erosion | 6 | Commenter requests help with serious erosion issue at Westport, WA especially in front of Westport by the Sea. “Please tell us your plan to help.” | Comment noted. No change proposed. Westport is in Grays Harbor County and therefore outside of the scope and authority of the Pacific County Shoreline Master Program and its update. |

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| A-8 | No Net Loss (NNL) monitoring | 16 | <p>The SMP gives no indication of how NNL will be baselined, tracked, or achieved...By choosing not to provide basic tools for Pacific County and others where applicable, state agencies and the county which has not been able to produce tools or determine status of Net Ecological Function or Cumulative Effects Analysis on its own are placed in a position of risking a major degradation. Such degradation of functions protected by the SMA, including economic and development functions, is not desirable, but is a risk at this time.</p> <p>The current plan has not caused No Net Loss monitoring to take place and the draft revision does not require or allow for this either. The lack of baseline, and the statement that NNL will be measured from the effective date of the new plan are not acceptable.</p> <p>The draft under consideration:</p> <ol style="list-style-type: none"> 1. contains no baseline for numerous estuarine ecological functions 2. accepts net losses to date 3. references no restoration needs where they clearly exist <p>Potential indicators are listed in the SMP handbook, some of which must be mandatory for Pacific County: acres of <i>Zostera marina</i>; acres of <i>Z. japonica</i>; peak waterfowl county for November; waterfowl use days for Willapa Bay, among others.</p> | <p>Comment noted. No change proposed. Under the SMA, the no net loss standard is intended to “halt the introduction of new impacts to shoreline ecological functions resulting from new development” (Ecology SMP Handbook). As the SMP is implemented over time, the existing condition of shoreline ecological functions should remain the same. Practically, the County is required to achieve this standard through 1) the SMP planning process, and 2) regulation of individual activities in shoreline jurisdiction.</p> <p>1) The SMP planning process: The existing SMP (2000) predates the no net loss standard (2003), so this will be the first County SMP to incorporate the standard. As such, baseline conditions were established at the beginning of this planning process in the Shoreline Inventory and Analysis report, which collected and analyzed existing environmental data sets, including wildlife and habitat data from WDFW and estuary vegetation information from The Nature Conservancy. The County has no authority to require restoration of net losses that predate the SMP. The Restoration Plan provides some guidance on restoration needs and opportunities, but under the SMA this is not a regulatory document. The Cumulative Impact Analysis and No Net Loss Report, also completed as part of the planning process, evaluate the various components of the SMP update in the context of existing conditions and future development pressures in order to determine whether the SMP will achieve no net loss over time.</p> <p>2) Regulation of individual activities: Section 8.13.A of the revised SMP states, “The County will track all shoreline permits and exemption activities to evaluate whether this SMP is achieving no net loss of shoreline ecological functions.” In addition to tracking permits, with each project application, staff will consider whether implementation of the SMP is meeting the no net loss standard.</p> |

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| A-9 | Ocean Resource Management Act (ORMA) | 23 | The Washington Supreme Court recently decided a case which reviewed ORMA for the first time confirming that it is to be liberally construed. ORMA is intended to be incorporated into local coastal SMPs as the county has done. It is designed to address threats to coastal waters, especially threats posed by fossil fuels, and preemptively protect the coastlines and coastal uses. The court upheld that adverse impacts and risks can be prohibited, not just sequenced through avoid, minimize, and mitigate. | Comment noted. No change proposed. Thank you for the legal context. Based on this information, the SMP appears to be consistent with ORMA. |
| A-10 | Regulatory scheme | 10 | The county should keep environmental issues separate from building site permits. Historically the shoreline regulations have been split between environmental, with critical areas, and structures. Have the Commissioners “determined the extra staff needed to implement and operate this Combo Ordinance?” | Comment noted. No change proposed. The adopted SMP does not change the permitting scheme in the County with respect to shoreline permits versus building permits. As such, implementation of the ordinance is not expected to require additional staff; on the contrary, County staff has stated that the improved organization and clarity of the adopted SMP will likely make it easier to implement than its predecessor. |
| A-11 | Sea Level Rise | 13, 21, 22 | Sea Level Rise (SLR) is a major threat to coastal communities, and while there is language addressing this in the SMP, it should be stronger to avoid loss of property and infrastructure. Regulations should be added to address sea level rise. Those elements of the SMP which address SLR are strongly supported but additional regulations would make it easier to implement the policies. The SMA and the Guidelines require SMPs to address the flooding that will be caused by sea level rise (see RCW 90.58.100(2)(h) and WAC 173-26-221(3)(b). Homes built today, and new lots created today, are likely to be in use in 2100. In addition, unless wetlands and shoreline vegetation are able to migrate landward, their area and ecological functions will decline. This will harm the environment and also deprive marine shorelines of the vegetation that protects property from erosion and storm damage by modifying soils and accreting sediment. (See related comment in 5.19 below) | Comment noted. No change proposed. Sea level rise is addressed in numerous sections in the SMP, including flood hazard management policies and regulations (Section 4.4 – uses in flood hazard areas must consider sea level rise); general development standards (Section 5.2.C, advising applicants to consider sea level rise in addition to required buffers); residential development policies (Section 5.19.A), transportation policies (Section 5.22.A), and utilities regulations (Section 5.2.3.B). In addition to required shoreline buffers and provisions under the incorporated Critical Areas Ordinance (including designation of Coastal High Hazard Areas), the County believes these provisions appropriately address sea level rise in the SMP. |
| Section 2 Definitions | | | | |

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| B-1 | Adverse Impact | 21, 22 | Comments suggest the need to strengthen the language to ensure protection of shoreline ecological functions. As written, the definition allows much greater impact to shoreline functions than no net loss. Recommended revisions to the definition are provided: ADVERSE IMPACT - An impact that can be measured or is tangible and has a reasonable likelihood of causing a net loss of moderate or greater harm to ecological functions or processes or moderate or greater harm to economic activities or normal uses, or other elements of the shoreline environment. | Comment noted. No change proposed. The term “net loss” implies a negative balance when all impacts – including adverse and beneficial (e.g. from restoration actions) are put together. Adverse impacts are only one part of this equation; incorporating the proposed edits into the definition would confuse its application to the concept of “no net loss.” |
| B-2 | No Net Loss | 16 | Commenter expresses concern that this implies aggregate functions. Per the SMA, each key function is to be maintained. Aggregate treatment would appear to say that more waterfowl could be traded for less salmon, or some such approach. Aggregate should be removed or explained here. | Comment noted. No change proposed. While the County can understand this interpretation, we believe that the paragraph following the first sentence provides adequate clarity and explanation to ensure interpretation consistent with state law. |
| B-3 | Priority Species | 16 | Forage fish should be listed as another vulnerable aggregation, specifically herring spawn, which has been declining. This is an example of the problem with starting a new SMP just looking for further declines. If significantly degraded under the current plan which should have prevented degradation, it would not be legal to cover it with shellfish beds and not bring it back. A cumulative analysis should have caught such things, and functions can’t be eliminated because they were not surveilled and restored. The SMA does not authorize ratcheting away functions through past or future neglect or oversight. | Comment noted. No change proposed. As described in the response to A-8, the County has no authority to require restoration of net losses that predate the SMP. The list of vulnerable aggregations provided in the definition of “priority species” is intended to provide examples, not a comprehensive list. However, herring and smelt spawning areas are protected under the Critical Areas Ordinance (incorporated by reference into the SMP) as Fish and Wildlife Habitat Conservation Areas. |
| B-4 | Non-structural (shoreline stabilization) | 13 | The definition of “non-structural” methods should also include the enhancement or restoration of natural infrastructure. | Comment noted. No change proposed. Thank you; the list provided is not intended to be comprehensive, but enhancement or restoration of natural infrastructure would likely be permitted as nonstructural, or “soft,” shoreline stabilization. Vegetation and beach enhancement are both listed under “soft” measures later on in the definition. |
| Section 3 Shoreline Jurisdiction and Environment Designations | | | | |
| C-1 | 3.1 Shoreline Jurisdiction | 3 | Is the canal in Surfside in shoreline jurisdiction and are the properties lining the canal “shorelands”? There is no specific identifier for this canal. | Comment noted. No change proposed. The Surfside canals and associated uplands are not in shoreline jurisdiction. Please refer to the Shoreline Environment Designations Map. |

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| C-2 | 3.1 Shoreline Jurisdiction (3.1.A.3) | 22 | Correct the lake size to ensure consistency with RCW 90.58.030(2)(e): 3. Lakes and reservoirs greater than <u>greater than 20 acres or larger</u> in area; | Good catch. The language in the SMP comes from Ecology’s interpretation, as presented at: http://www.ecy.wa.gov/programs/sea/sma/st_guide/jurisdiction/lakes.html . The County looks to Ecology to ascertain whether this revision to the SMP wording is necessary. |
| C-3 | 3.2 F Willapa Bay Conservancy – Oysterville Cannery | 7, 8, 11, 14, 17, 18, 19 | <p>Numerous commenters request that the Oysterville cannery remain in the High Intensity (aka Urban) designation. The buildings are on the National Register of Historic Places, and have a documented history as a commercial oyster farm, shellfish processing plant and retail seafood market. Operations pre-date adoption of the county’s first SMP, operating continuously for decades. It is the only business on the Long Beach Peninsula that offers the public an opportunity to view Willapa Bay.</p> <p>“Willapa Bay Conservancy” is supposed to apply to shorelines currently supporting lesser intensity resource based uses, low-density residential uses, low-intensity water-dependent uses or of high recreational value with unique historic or cultural resources. While the cannery structures do have unique historic and cultural value, the location otherwise does not fit the designation criteria.</p> <p>“Historic use, significance and designation, current uses, cultural interest and impact, positive commercial impact, no negative ecological impact, public interest, public opinion, best available science and best available legal decision support the Oysterville cannery buildings retaining their high intensity (aka urban) shoreline designation.”</p> <p>Designating the area Conservancy could threaten the commercial viability of the business. The county may be overstepping the limitations of the “Takings” provisions of the SMA.</p> | <p>Comment noted. No change proposed. The Planning Commission discussed this request at its January 21st hearing, concluding that there was insufficient justification for a redesignation to High Intensity. Because of the broader permissions for non-water-oriented uses in the High Intensity designation, the designation is intended to be applied much more selectively than the previous Urban designation. Designation as Urban under the previous SMP is not itself justification for a High Intensity designation; the Urban designation was applied to areas under the previous SMP that have been designated under the revised SMP as Coastal Conservancy, Rural Conservancy, Willapa Bay Conservancy, and even Willapa Bay Estuary (an aquatic designation). The High Intensity areas at Bay Center, Tokeland, and Port of Chinook have all been significantly reduced in size as well from the previous Urban areas.</p> <p>With respect to the potential impact of the Willapa Bay Conservancy designation on the commercial viability of Oysterville, please refer to the responses to A-2 and A-3, above. The owner of Oysterville Sea Farms expressed that he does not foresee non-water-oriented uses at that location, so it is unclear what he wants to do that will not be permitted within the Willapa Bay Conservancy designation (and that would be permitted within the High Intensity designation).</p> |

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| C-4 | 3.2 G Coastal Ocean (3.2.G.3.b) | 20, 24 | <p>A blanket prohibition of fixed structures (in coastal areas) is unjustifiable and, in the context of aquaculture, conflicts with numerous policies in the draft SMP that recognize aquaculture as a preferred use that should not only be allowed but granted latitude to locate in areas that are suitable for growing seafood and to innovate with expanding technology (5.5.A.3-7).</p> <p>Management Policy 3.b should be revised: “Permanently anchored or fixed structures should be prohibited <u>other than for aquaculture</u>, including submerged cables or pipelines.... (Also see comment on 6.2.A below)</p> | <p>Comment noted. No change proposed. The SMP does recognize aquaculture as a preferred use that should be granted latitude in areas that are suitable for aquaculture. The Coastal Ocean environment extends along the county’s Pacific Ocean coast – an extremely high-wave-energy environment that is not suitable for aquaculture. During their discussion on the topic, the Planning Commission did not receive any specific information to indicate that this analysis was no longer accurate (e.g. new developments in aquaculture technology that would render it appropriate in a high wave energy environment). Broad support was expressed for the prohibition of fixed structures in the Coastal Ocean environment. Please also refer to the County’s response to E-4, below.</p> |
| C-5 | 3.4 Official Shoreline Maps and Unmapped or Undesignated Shorelines (3.4.D) | 21, 22 | <p>Ordinary High Water Mark (OHWM) determinations - These should not be valid for five years. The shorelines of the state are dynamic and the OHWM on some shorelines can change in a short amount of time. Shorelines may be altered by one weather event – Washaway Beach is an example. OHWM determinations should be done more frequently than 5 years, especially in areas vulnerable to rapid change.</p> | <p>Comment noted. No change proposed. The five year timeframe is consistent with the County’s permit durations, which would serve as the effective timeframe regardless. Therefore, codifying it was deemed as a better approach than leaving it open-ended.</p> |
| Section 4 General Policies and Regulations | | | | |
| D-1 | 4.1 Historic/Cultural/Scientific/Educational (4.1.B.2) | 26 | <p>To provide clarity, It’s recommended that the word “immediately” be added to Regulation B.2: “...work must be stopped <u>immediately</u>...”</p> | <p>Comment noted. No change proposed. While the recommended revision would provide additional clarity, the County feels that the provision is clear as written.</p> |
| D-2 | 4.2 Environmental Protection and Critical Areas (4.2.A.4) | 16 | <p>The current wording allows current conditions to remain. “ensuring no net loss of ecological functions relative to existing conditions” does not restore that which requires restoring. ESA and sensitive species can’t be protected under this approach.</p> | <p>Comment noted. No change proposed. The County has no authority to require restoration of net losses that predate the SMP, or to require mitigation beyond the amount necessary to compensate for adverse effects and result in no net loss.</p> |
| D-3 | 4.2 Environmental Protection and Critical Areas (4.2.A.5 and A.6) | 16 | <p>Replace the word “should” with “shall”. Items listed such as fish and wildlife are not optional for protection.</p> | <p>Comment noted. No change proposed. Throughout the SMP, “should” is used in policies and “shall” is used in regulations, in order to differentiate the application of these two types of provisions. The word “should” does not express a legal</p> |

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| | | | | requirement, while "shall" does; however, neither are optional. In practice, the County must abide by its policies to the extent possible, and regulations are intended to implement those policies through specific requirements. |
| D-4 | 4.2 Environmental Protection and Critical Areas (4.2.B) | 16 | The regulations should be clear that if aquaculture is a preferred use it cannot be substituted for other ecological functions. | Comment noted. No change proposed. This is stated (as it broadly applies to all shoreline uses and developments, not just aquaculture) in Section 4.2.B.1. |
| D-5 | 4.2 Environmental Protection and Critical Areas (4.2.B.g.i) | 13 | It would be helpful to be more specific about the definition of "require a location." What sort of water-oriented activities should be allowed in a variance? Should water-oriented activities be given a variance? | Comment noted. No change proposed. This provision is getting at a component of a water-oriented development that would be considered water-dependent, and therefore not subject to the buffer and setback requirements. Definitions for water-oriented and water-dependent are provided in Chapter 2. Variance permits are granted according to the criteria in WAC 173-27-170 on a case-by-case basis; whether or not the use is water-dependent may be one of numerous considerations. |
| D-6 | 4.3 Public Access | 21, 22 | Public access is one of the policies of the SMA. As population increases, the need for public access increases. Development needed to accommodate the growth can also interfere with traditional public accesses. It is in the best interest of the county and the state to maximize public access for recreation. A recent study (Surfrider and Point97) concluded that state residents made 4.1 million visits to the coast in 2014 resulting in \$481 million dollars in direct expenditures. | Comment noted. No change proposed. There does not appear to be a specific question or request for a revision presented in this comment. It looks like it should be combined with the comment below, D-7. Please see County response to D-7. |
| D-7 | 4.3 Public Access (4.3.B.1.d) | 21, 22 | Please improve public access requirements. Public access, not just community access, should be required for subdivisions of more than 4 parcels but less than 10 parcels. This is inconsistent with WAC 173-26-221(4)(d). (Also see comment on 5.19) | Comment noted. No change proposed. SMP Section 4.3.B.1.d states that, for residential subdivisions of between four and 10 parcels, the public access requirement may be met for with "community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use of the property owners and guests within the proposed subdivision." The inclusion of guests in this provision opens up the required access to be available to more than just private residents. This approach is less onerous on small subdivisions and is consistent |

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| | | | | with the WAC and with input from Ecology. |
| D-8 | 4.3 Public Access (4.3.B.2) | 22 | The proposed language could be interpreted as only requiring public access on rights of way and easements that exist now, not those created in the future to meet the public access requirements proposed in 4.3. We don’t think this is the county’s intent and it is not consistent with the SMA and the Guidelines. See recommended revisions: 2. For the purposes of this SMP, the right to public access shall not be construed to include the right to enter or cross private property, except through the use of an existing dedicated public right-of-way or through an existing easement <u>or similar legal mechanism</u> that allows public access. | Comment noted. No change proposed. This provision is clarifying the definition of the right to public access, i.e. clarifying that the right to public access does not provide carte blanche to members of the public to trespass. In this context, use of the term “existing” makes sense. In other words, only if there is an access easement in place may members of the public cross (otherwise) private property. This particular provision is not talking about the creation of new public access, e.g. through dedication of an easement. |
| D-9 | 4.4 Flood Hazard Management (4.4.B.6.e) | 13 | Consider adding a regulation or policy encouraging the removal of unnecessary dikes to allow coastal habitat migration as sea levels rise. | Comment noted. No change proposed. Per Table 5-1, shoreline habitat and natural systems enhancement projects are permitted in all shoreline environments. |
| D-10 | 4.5 Vegetation Management A. Policies | 13 | Vegetation policies call out the importance of minimizing vegetation removal, however, consider using a policy or regulation to encourage new developments to first avoid vegetation removal resulting in loss of ecological functions. This could include encouraging development of previously developed land or areas already cleared. | Comment noted. No change proposed. This approach is addressed under the general requirement to demonstrate mitigation sequencing (Section 4.2.B.4), the first step of which is avoidance. |
| D-11 | 4.5 Vegetation Management A. Policies | 16 | Replace “should” with “shall”. All water dependent uses are not optional. | Comment noted. No change proposed. Please refer to the County’s response in D-3. |
| D-12 | 4.5 Vegetation Management (4.5.B.7) | 4 | Comment expresses support for language in 4.5, regulation 7 which does not allow topping of trees for views. (Also see comment on Appendix B, Section E.13 below) | Comment noted. No change proposed. Thank you for expressing your support. This comes from the science- and experience-based recommendations of arborist professionals as well as the Department of Ecology. |
| D-13 | 4.6 Water Quality (4.6.B.5.f) | 13 | Will regulation for standard sewage drainfields consider sea level rise, potential increased rainfall, and the combination of flooding and storm surge? 100 foot setback for drainfields may be adequate now but it would be wise to consider future flooding and erosion potential. Possible adaptive management strategies as shorelines change? | Comment noted. No change proposed. New drainfields will require determination of the ordinary high water mark at the time of permit application (assuming no determination has been done on the site in the past five years). Given this sensitivity to existing conditions written into the provision, unless otherwise required by the Administrator (as specified in |

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| | | | | the provision), a 75 or 100-foot setback is appropriate for new drainfields. Applicants are also advised to consider potential vulnerability to sea level rise and coastal inundation (Section 5.2.C). |
| Section 5 Shoreline Uses, Development and Modifications | | | | |
| E-1 | 5.1 Use, Development and Modifications Matrix - Aquaculture | 20 | <p>To ensure the county continues to foster a thriving aquaculture industry, recognizing that it is a preferred, water-dependent use, the following revisions are requested to Table 5-1:</p> <p>Remove the prohibition on clam and oyster shell piles in the Natural, Shoreline Residential and Coastal Conservancy SEDs. An outright prohibition is unjustified and may inappropriately constrain aquaculture operations. If allowed, the county retains the ability to ensure these are appropriately sited and maintained.</p> <p>Remove the prohibitions on aquaculture in the Coastal Ocean SED. Table 5-1 prohibits nearly every type of aquaculture in this SED. “No justification is provided for this prohibition, and we are aware of no credible justification.” National and state laws and policies encourage siting aquaculture in new areas and the SMP should not contain an unnecessary prohibition in this SED.</p> | <p>Comment noted. No change proposed. Shellpiles are not consistent with the purpose of the Natural and Shoreline Residential environment designations, as defined in Chapter 3 of the SMP. Similarly, as aquaculture is prohibited in the Coastal Ocean environment, and other than Natural, Coastal Conservancy is the only upland environment adjacent to Coastal Ocean, it does not make sense to permit clam and oyster shellpiles, as they would not be associated with a permitted aquaculture activity.</p> <p>Regarding the prohibition of aquaculture in the Coastal Ocean SED, please refer to the County’s response to C-4.</p> |
| E-2 | 5.1 Use, Development and Modifications Matrix - Aquaculture | 22 | <p>Comment supports prohibiting shellpiles in Willapa Bay Estuary and Columbia River Estuary designations and agrees that footnote 2 should prohibit shellpiles from spilling over into areas below the OHWM.</p> | <p>Comment noted. No change proposed. Thank you for your support.</p> |
| E-3 | 5.1 Use, Development and Modifications Matrix - Aquaculture | 24 | <p>“Aquaculture is a preferred use that must be regulated consistent with federal and state goals and policies.” The SMA and SMP Guidelines recognize aquaculture as a preferred use and “local governments must give preference to uses that, among other things, are “unique to or dependent upon use of the state’s shoreline” and advance the statewide interest.” Federal and state agencies have also released plans and policies supporting aquaculture including the National Shellfish Initiative in 2011, the National Ocean Policy Implementation Plan, a draft Marine Aquaculture Strategic Plan and the Washington Shellfish Initiative.</p> <p>Table 5-1 should be revised to allow for all aquaculture uses in the Coastal Ocean</p> | <p>Comment noted. No change proposed. Regarding the prohibition of aquaculture in the Coastal Ocean SED, please refer to the County’s response to C-4 and E-4.</p> |

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| | | | <p>environment designation.</p> <p>The table allows shellfish aquaculture in the Willapa Bay Estuary designation but inappropriately prohibits nearly all forms of aquaculture, including shellfish and finfish, in the Coastal Ocean designation. There is no scientific or legal justification for a broad prohibition on aquaculture. The permitting process gives the county and Ecology the authority to make case-specific decisions to ensure new uses do not harm ecological functions and existing uses.</p> | |
| E-4 | 5.1 Use, Development and Modifications Matrix – Aquaculture – Finfish net pens | 24 | <p>Table 5-1 inappropriately contains a jurisdiction-wide prohibition on net pens for growing fish to harvest size. There is potential and interest in the use in the county’s Coastal Ocean environment, and this use advances numerous plans and policies (state and Federal) supporting aquaculture development. A jurisdiction-wide prohibition on net pen aquaculture constitutes a fundamental failure to plan for and foster all reasonable and appropriate uses. RCW 90.58.020. Net pen aquaculture is not simply reasonable and appropriate use, but it is preferred and must be allowed for in the SMP, particularly in light of the potential and interest in this use.</p> | <p>Comment noted. No change proposed. The following is taken from the memorandum titled “Supplementation of the Record,” dated October 26, 2016 and submitted to Ecology with the SMP:</p> <p><i>Net pens are of particular concern in Pacific County because of unique conditions associated with the county’s shoreline that would result in an unacceptable risk to existing water-dependent uses in the county. These conditions are described below as they exist in each applicable shoreline environment designation.</i></p> <p>Willapa Bay Estuary</p> <p><i>Water quality is a particular concern in Willapa Bay given the significance of shellfish aquaculture to the County’s economy (see Shoreline Analysis Report for Shorelines in Pacific County). As noted in the Shoreline Analysis Report, “Successful aquaculture production is dependent on good water quality conditions, low fine sediment loads, and a consistent range of salinities.” Willapa Bay has historically been known for its excellent water quality conditions. Nevertheless, several areas within Willapa Bay are listed as impaired for water quality parameters including temperature, fecal coliform bacteria, dissolved oxygen, and pesticides. Net pen production, regardless of how well managed, will result in some particulate organic waste material from the growing species (Rust et al. 2014). Given the circulation patterns of the coastal ocean and</i></p> |

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| | | | | <p><i>Willapa Bay described in the Shoreline Analysis Report, particulate organic matter in or near the mouth of Willapa Bay would be transported and dispersed within Willapa Bay. Any additional dispersion of particulate organic matter within Willapa Bay would have the potential to further reduce benthic dissolved oxygen, which would result in unacceptable risk to existing aquaculture facilities. Other concerns from existing aquaculture related to net pens include potential for eutrophication and associated toxic algal blooms.</i></p> <p>Coastal Ocean/Coastal Ocean High Intensity</p> <p><i>Extensive public comment, debate, and agency coordination during the SMP development process focused on the incompatibility of fixed structures (primarily directed at wind energy, but also broadly applicable) with fishing access and safety in Pacific County. As noted in public comment, Pacific County is the fourth most fishery-dependent county in the nation and its waters disproportionately support commercial fisheries in Washington State. Anchored net pens would result in incompatible effects to fishing navigability, access, and safety, as described previously in relation to fixed structures. Additionally, the high-energy conditions in Pacific Coastal waters in Pacific County are not conducive to net pen aquaculture. As noted in Ecology's Southwest Washington Coastal Erosion Study, deep water wave heights average three meters in winter and can reach as high as nine meters. Climate change is expected to increase the intensity of storms, and shifting storm tracks and increased wave heights have already been recognized south of Point Grenville (Huppert et al. 2009). Net pens in such an area would present an unacceptable risk of failure resulting in escape of salmon, which would result in unintended adverse impacts to native fish populations (through potential competition and inter-breeding).</i></p> |

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| | | | | <p>Columbia River Estuary As noted in the Shoreline Analysis Report, the combination of dikes and water flow regulation has contributed to a 62% loss in the shallow water habitat in the lower Columbia River Estuary (Kukulka and Jay 2003). Current wild populations of salmon in the Columbia River basin represent only 12% of their historic numbers (Bottom et al. 2005). Thirteen Evolutionarily Significant Units of salmon pass through the Columbia River Estuary. Given the already reduced area for productive rearing of salmonids in the Columbia River Estuary, as well as the potential risks to already depressed stocks from net pens, including disease, parasites, escape, and interbreeding, the introduction of net pens to the Columbia River Estuary would present unacceptable risk to the natural environment.</p> <p>Freshwater Aquatic Concerns about net pens in the freshwater aquatic designation are related to downstream impacts to water quality in the receiving waters of Willapa Bay (see Willapa Bay Estuary section above). Freshwater aquatic areas outside of the Willapa Bay watershed are not conducive to net pen aquaculture given their relatively small and steep drainages in Pacific County.</p> |
| E-5 | 5.1 Use, Development and Modifications Matrix – Commercial, Industrial, Flood Hazard Structures | 22 | <p>Table 5-1 allows some uses in certain environments that are inconsistent with the SMP Guidelines and would lead to further ecological damage.</p> <p>Commercial and industrial development should not be allowed in the Rural Conservancy, Coastal Conservancy, Willapa Bay Conservancy and any Urban Conservancy environment in the county unless they are low intensity, water oriented uses allowed “in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use.” If these uses are to be allowed in these environments, these qualifications must be added as footnotes.</p> | <p>Comment noted. No change proposed. With the exception of water-dependent commercial development in the Willapa Bay Conservancy environment, all commercial and industrial development outside of the High Intensity environment is either prohibited or requires a conditional use permit. While footnotes may be used to specify the conditions under which such development would be permitted, the SMP provides these conditions within the respective use and modifications sections (5.8, 5.13) as well as within the management policies for each shoreline environment designation. As the regulations in these sections control, this is the preferred approach. The conditions</p> |

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| | | | | required of commercial and industrial development are consistent with the WAC. |
| E-6 | 5.1 Use, Development and Modifications Matrix – Fill and Excavation | 22 | Fills below the OHWM are inconsistent with the SMP Guidelines for the Natural environment and should be prohibited except for restoration. | Comment noted. No change proposed. Consistent with WAC 173-26-231(3)(c), fill waterward of the OHWM (all environments) for any use except ecological restoration requires a conditional use permit. |
| E-7 | 5.1 Use, Development and Modifications Matrix – Flood Hazard Structures | 22 | Flood control structures are inconsistent with the Rural Conservancy environment, so recommend they only be allowed as part of a restoration project or to maintain an existing structure. | Comment noted. No change proposed. While one purpose of the Rural Conservancy environment is to “achieve natural flood plain processes,” another purpose is to “provide for sustained resource uses,” including agriculture. As flood control structures such as dikes are often necessary to protect agricultural activities, prohibiting them for this use would be inconsistent with the environment. |
| E-8 | 5.1 Use, Development and Modifications Matrix – Shoreline Stabilization | 22 | Structural shoreline stabilization is inconsistent with the Natural environment and should not be allowed. | Comment noted. No change proposed. New hard shoreline stabilization is prohibited in the Natural environment. Replacement of hard stabilization with hard stabilization requires a conditional use permit. |
| E-9 | 5.1 Use, Development and Modifications Matrix - Transportation | 13 | Should roads be “conditionally permitted” within the Willapa Bay Estuary and Columbia River Estuary? | Comment noted. No change proposed. Per 5.22.B.1.d, “Land transportation facilities shall be prohibited in aquatic areas except where bridge crossings are needed and where no feasible alternative shoreland or upland route exists.” |
| E-10 | 5.2 General Development Standards | 10 | The commenter requests the county keep environmental sites (Highest Astronomical Tide and Ordinary High Tide) separate from construction sites (FEMA). | Comment noted. No change proposed. The County does not understand the comment. |
| E-11 | 5.2 General Development Standards - Highest Astronomical Tide | 1 | Commenter objects to the use of highest astronomical tide and believes the existing high water mark is good enough. Flood regulations already address protecting property. Believes this is a government taking of property without compensation. | Comment noted. No change proposed. This issue was discussed at length by the Planning Commission, which decided to use Highest Astronomical Tide (HAT) in order to make establishing shoreline buffers and setbacks consistent in areas where there have been controversial OHWM determinations. An estimate of HAT was mapped by The Nature Conservancy and clearly showed alignment with areas of known inundation where |

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| | | | | development would be inappropriate. |
| E-12 | Table 5-2 Dimensional Standards – Highest Astronomical Tide | 25 | <p>The port finds that use of Highest Astronomical Tide in High Intensity designated areas around the Nahcotta Boat Basin are “in irreconcilable conflict with marine terminal operations, highly detrimental to both job retention and job creation and entirely at odds with core mission of port district as designated in RCW 53.”</p> <p>It’s suggested that the designation remain at the current delineation for the above areas, or use Mean Low Low Water for shoreline (consistent with US Army Corps of Engineers).</p> | <p>Comment noted. No change proposed. Please see County response to E-11, above. In particular, an evaluation of HAT elevation in the vicinity of the Nahcotta Boat Basin shows clear alignment with the wharf edges, and therefore likely aligns with field determinations of OHWM. Use of MLLW would be inconsistent with the SMA.</p> |
| E-13 | Table 5-2 Dimensional Standards - Buffers | 13, 21, 22 | <p>Commenters expressed concern that the proposed buffers in many of the shoreline environments – Rural Conservancy, Shoreline Residential, High Intensity, Coastal Conservancy and Willapa Bay Conservancy - are inadequate and not consistent with current scientific research which has shown that larger buffers are needed to minimize impacts and ensure the no net loss standard is met. Specific comments include the following:</p> <p>Shoreline ecosystems provide critical services and are highly valued for these services. Given the changing climate, “development pressures should be minimized to give habitats and species the best chance to adapt. Strong buffers that allow coastal habitats to adapt and provide important services are imperative to community and environmental resiliency.” (TNC)</p> <p>The Rural Conservancy, Shoreline Residential, Willapa Bay Conservancy, and Coastal Conservancy buffers are not adequate to protect the water quality of the Willapa Bay estuary from residential or commercial development. Deletion of the Rural Conservancy environment’s 25’ buffer for man-made canals and lakes is appreciated but the remaining buffers are too narrow to protect water quality. Typical residential and commercial development needs a buffer of 262 feet to protect water quality in estuaries. Other functions typically require 150 feet or wider. To address these impacts, it’s recommended that the buffers for Rural Conservancy, Shoreline Residential, Willapa Bay Conservancy and Coastal Conservancy environments be increased to 150 feet. (Futurewise)</p> <p>Allowing a buffer narrower than 150 feet will result in significant vegetation removal along Willapa Bay and its tributaries, will adversely impact the water quality of the Bay</p> | <p>Comment noted. No change proposed. Generally, buffers wider than 200’ extend outside of shoreline jurisdiction and are therefore inappropriate for inclusion in the SMP. Given that, proposed buffers in the Natural environment (200’) and Coastal Conservancy environment (200’ with trails permitted in the outer 100’) cannot be increased.</p> <p>Both the Shoreline Residential and High Intensity environments are extremely limited in application countywide. Intact vegetated buffers are typically absent from existing developed parcels in these environments. In most cases, these shoreline areas are fronted by levees, which disrupt potential buffer functions. Given the purpose of these two environments and their existing development patterns, the proposed buffers are appropriate and adequate to protect shoreline functions.</p> <p>The County performed an analysis of vegetated buffer and setback conditions on existing developed parcels as part of its Cumulative Impacts Analysis (see Table 4-1 of that report). From that report: “The proposed buffer width of 75 feet in the Willapa Bay Conservancy environment was found to be generally consistent with the average condition of undisturbed vegetation on improved parcels bay-wide. However, the majority (88 percent) of parcels in Willapa Bay Conservancy are unimproved.... Assuming that unimproved parcels are relatively</p> |

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| | | | <p>and will not maintain the existing ecological functions. (Futurewise) Single-family and multi-family homes would be allowed to build 25’ from man-made canals and lakes and 50’ from natural streams, rivers and lakes in the Shoreline Residential designation. These buffers don’t provide adequate protection from development and a minimum of 150’ is recommended. (The Nature Conservancy) Assigning proper setbacks for residential and commercial development is one of the most important and tangible aspects of SMPs. The purpose of the Willapa Bay Conservancy designation is to “protect to the highest degree possible the Willapa Bay shorelines.” Management policies include the statement that “uses that adversely impact the ecological functions...should not be allowed except where necessary.” To maintain ecological functions, the buffers must be strengthened. The 75’ proposed buffer is well below that needed to protect the Bay. Even in areas with critical areas that extend buffers to 130’, buffer reductions could reduce this to 97.5’. A minimum 150’ is recommended to reasonably protect the ecological functions, fishing, and aquaculture activities in the Bay. (The Nature Conservancy)</p> | <p>undisturbed, new development on those unimproved parcels could potentially reduce existing buffer conditions. However ... approximately 82 percent of vacant parcels in Willapa Bay Conservancy contain wetlands. Specifically, saltmarsh wetlands are present along the majority of Willapa Bay shorelines.” Under the critical area regulations incorporated by reference into the SMP, estuarine wetland buffers range from 75-200 feet. These wetland buffers standards, in addition to mitigation sequencing requirements in the SMP, will together insure that shoreline ecological functions are maintained while allowing for appropriate future development. Per the analysis mentioned above, proposed buffers in the Rural Conservancy environment (130’) are slightly higher than existing vegetated conditions on developed parcels (96’). This is appropriate to maintain ecological functions given the high percentage of unimproved parcels in this environment.</p> |
| E-14 | 5.5 Aquaculture A. Policies (5.5.A.2) | 24 | <p>Revision of Policy A.2 is requested as follows: 2. Aquaculture uses should maintain no net loss of ecological functions, should not <u>significantly and</u> adversely impact the aesthetic qualities of the shoreline, and should not significantly conflict with navigation and other water-dependent uses. [WAC 173-26-241(3)(b)(i)(C)] Aesthetics are subjective and any use, development or activity could have adverse impacts, thus a “no aesthetic impact” standard could be impossible to achieve. The Guidelines include the critical qualifier that aquaculture facilities be designed and located so as not to <u>significantly</u> impact aesthetic qualities.</p> | <p>Comment noted. No change proposed. Thank you for the suggestion. While the proposed language more closely resembles that of the WAC, the term “significantly” is also subjective. Given that this is policy language (rather than regulation language), and that it is followed by a policy to grant aquaculture some latitude (policy A.6), the County feels the current wording is implementable and is consistent with the WAC.</p> |
| E-15 | 5.5 Aquaculture A. Policies (5.5.A.2) | 16 | <p>Policy A.2 – change “should” to “shall” maintain no net loss of ecological functions. This is an example of where it is inappropriate to accept 2017 conditions, especially if “shellfish beds” are to be considered ecological functions. To the extent that inattention has allowed critical functions to be decreased, corrective action must be taken under the concept of restoration. Salmon, waterfowl, ESA species and sensitive</p> | <p>Comment noted. No change proposed. Please refer to County responses to D-2 and D-3.</p> |

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| | | | species are not candidates for status quo if significantly degraded. | |
| E-16 | 5.5 Aquaculture A. Policies (5.5.A.6) | 16 | Policy A.6 – strike “and therefore not recognize the necessity for some latitude in assessing potential impact...on ...natural systems.” It is not the intent of SMA to issue latitude in unquantified amounts to degrade or further degrade natural systems. ³ | Comment noted. No change proposed. This language is taken from WAC 173-26-241(3)(b)(i)(B) to acknowledge that aquaculture technology is subject to change. Given that this is policy language (rather than regulation language), some subjectivity is acceptable. |
| E-17 | 5.5 Aquaculture (5.5.B.2.c.i) | 16 | This section must be stricken. It would clearly allow more net loss of eelgrass or other ecological function to be eliminated by an aquaculture operation and never be allowed to return. Preferred use status is specifically prohibited from such substitution of another use or function. If a net loss is occurring, it is to be restored. This would institutionalize the progressive loss of critical habitat and make it impossible to restore that which has reduced ecological function to date or in the future under the program. If herring spawning habitat has been or is degraded, it cannot be replaced with something else. It has to be restored. | Comment noted. No change proposed. Eelgrass growth is incompatible with certain aquacultural activities. These provisions are intended to allow permitted aquaculture operations to maintain those operations, much like a farmer is permitted to remove vegetation from cultivated areas. Expansion of aquaculture, as defined in Section B.1, still requires shoreline review and demonstration that no net loss will be achieved. |
| E-18 | 5.6 Boating Facilities and Mooring Structures | 26 | The SMP lacks regulations for recreational mooring buoys and it is recommended provisions be added. | Comment noted. No change proposed. Recreational mooring buoys are considered boating facilities and regulated under Section 5.6. |
| E-19 | 5.7 Breakwaters, Jetties, Groins, and Weirs | 13 | Consider including a regulation requiring a report on why soft stabilization measures are not feasible before permitting a hard stabilization method. | Comment noted. No change proposed. While it does not require a report, Section 5.21.B.4 requires an applicant for shoreline stabilization to demonstrate that soft stabilization is not sufficient to protect primary structures. |
| E-20 | 5.8 Commercial Development | 12 | Examples of allowed and prohibited commercial uses specific to the SMP would add clarity for the public. It’s assumed many of the commercial uses listed in the Zoning Ordinance (Ordinance 178), and allowed by special use permits, would not be allowed in shorelines but the Use Matrix (Table 5-1) makes few notations. For example, it makes no sense to allow marijuana production facilities. | Comment noted. No change proposed. The SMP does not specify which specific commercial uses will or will not be permitted within shoreline jurisdiction; instead, it specifies 1) where commercial uses, in general, may be appropriately located on county shoreline (i.e. shoreline environment designations + use matrix); and 2) criteria by which any proposed commercial use will be considered. Uses must also be |

³ This comment may also include policy 7. It’s unclear from the email.

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| | | | | consistent with underlying zoning as well as any other applicable County regulations. |
| E-21 | 5.8 Commercial Development | 13 | It is recommended commercial development be encouraged to consider future flooding projections before building, particularly in the High Intensity designation with only a 10’ buffer requirement. | Comment noted. No change proposed. Section 4.4 requires that uses in flood hazard areas consider sea level rise. Section 5.2.C advises applicants to consider sea level rise in addition to required buffer. These provisions apply to commercial development in all environment designations. |
| E-22 | 5.12 Forest Practices (5.12.A.2) | 13 | Comment notes that forests also provide important value in erosion and flooding control. | Comment noted. No change proposed. The intent of this policy is to highlight the beneficial impacts that good harvesting practices may have on natural resource functions, where the County has authority to control those practices. |
| E-23 | 5.13 Industrial Development (5.13.B.1) | 13 | In addition to constructing industrial developments in a “manner that minimizes adverse impacts”, also encourage developers to consider the potential impacts of the environment on the development, e.g. locating the site far enough to prevent flooding, erosion, and the need to expand shoreline stabilization. | Comment noted. No change proposed. Section 4.4 requires that uses in flood hazard areas consider sea level rise. Section 5.2.C advises applicants to consider sea level rise in addition to required buffer. Section 5.3.B.2 requires that new development be located and designed to avoid the need for future shoreline stabilization and maintenance dredging activities. These provisions apply to industrial development in all environment designations. |
| E-24 | 5.16 Mining | 21, 22 | <p>Comments urge the county to include standards for mining in flood plains, floodways and channel migration zones. Mining in these areas has the potential to adversely impact rivers and streams and if allowed in the SMP, standards are needed to prevent impacts to the environment and nearby property owners.</p> <p>Futurewise recommends the following regulations:</p> <ol style="list-style-type: none"> 1. <u>Mines should be located outside the channel migration zone so they do not increase the rate of channel migration.</u> 2. <u>Mines should be no deeper than the bottom of the nearby streams and rivers so when the river moves into the mine, the impacts will be reduced.</u> 3. <u>The mine reclamation plan should have a design so that when the mine [SIC] is captured by the river or stream the mine is not so wide that the captured sediments</u> | Comment noted. No change proposed. Per Table 5-1, mining is prohibited in all upland environments except for Rural Conservancy. Mining within a floodway or channel migration zone requires a conditional use permit, and mining waterward of the OHWM is prohibited unless it meets the criteria in Section 5.16.B.7. Conditional uses are subject to a higher level of scrutiny, including substantive review by the Department of Ecology as well as the County to ensure consistency with state law. The County believes that the strict prohibitions and review criteria to which mining is subject are sufficient to ensure protection from the potential adverse impacts associated with mining. |

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| | | | <u>destabilize the river or stream or increase erosion risks on upstream properties.</u> | |
| E-25 | 5.19 Residential Development | 12 | The SMP Residential Development definition includes home occupations and accessory dwelling units both of which would not be exempt from the substantial development permitting process. Home occupations are defined in the zoning ordinance but not in the SMP. Allowed home occupations can be conducted in the home or an accessory building but the commenter questions if some of this would meet the requirements of priority and preferred uses of the shoreline (e.g. temporary parking and storage of vehicles used for work off-site; small-scale assembly, and production of individually handcrafted items). “Ecology should address how these accessory uses are handled within the 200-foot shoreline designation.” | Comment noted. No change proposed. Home occupations must comply with the zoning ordinance as well as with applicable provisions of the SMP, including general requirements to demonstrate no net loss and specific regulations for residential development. New parking, for example, must be located landward of the residence and as far upland as feasible. |
| E-26 | 5.19 Residential Development A. Policies (5.19.A.8) | 13 | Suggested revision: A. 8. Limit residential development within identified Channel Migration Zones, FEMA Floodways, frequently flooded areas, areas flooded by storm surge, and areas vulnerable to inundation under projected sea level rise <u>for the anticipated lifetime of the development in the foreseeable future.</u> | Comment noted. No change proposed. The interpretation of the proposed SMP provision and the revision suggested by the commenter are identical from the perspective of County staff. |
| E-27 | 5.19 Residential Development (5.19.B.7) | 21, 22 | Development of subdivisions of more than 4 parcels but less than 10 are allowed to meet the requirements by providing “community access” and not public access to shorelines. This is inconsistent with WAC 173-26-221(4)(d) and should be corrected. (Also see comment on 4.3 Public Access) | Comment noted. No change proposed. Please refer to the County’s response to D-7. |
| E-28 | 5.19 Residential Development | 22 | The following regulations are recommended to ensure new lots and buildings are located outside the area of likely sea level rise. <u>11. New lots shall be designed and located so that the buildable area is outside the area likely to be inundated by sea level rise in 2100 and outside the area in which wetlands will likely migrate during that time.</u> <u>12. Where lots are large enough, new structures and buildings shall be located so that they are outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands and aquatic vegetation will likely migrate during that time.</u> | Comment noted. No change proposed. Sea level rise is addressed in numerous sections in the SMP that apply to residential development, including flood hazard management policies and regulations (Section 4.4 – uses in flood hazard areas must consider sea level rise); general development standards (Section 5.2.C, advising applicants to consider sea level rise in addition to required buffers); and residential development policies (Section 5.19.A). Given that sea level rise projections are constantly changing and being refined, the County does not feel comfortable codifying them into use for something as fundamental as the building of homes. |

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| E-29 | 5.20 Restoration | 13 | A policy could be added that encourages restoration projects to identify how the project will work to mitigate the impacts of climate change or enhance ecosystem resilience. | Comment noted. No change proposed. These kinds of considerations are included in the County’s Shoreline Restoration Plan. |
| E-30 | 5.21 Shoreline Stabilization (5.21.B.1.b) | 13 | Does the county want to allow stabilization for new development at all? If the land needs to be stabilized due to natural processes now, the development will only be placed at greater risk over time as sea levels rise. | Comment noted. No change proposed. Water-dependent development and single-family residential development are preferred under the SMP. The County needs to ensure there is a pathway to allow this kind of development. The proposed SMP provisions are derived directly from WAC 173-26-231(3)(a)(iii). |
| E-31 | 5.23 Utilities | 26 | The SMP lacks regulations for stormwater outfalls. It is recommended that provisions be added. | Comment noted. No change proposed. Per Section 4.6.B, Water quality regulations, all shoreline uses and activities must comply with the current edition of the Department of Ecology’s Stormwater Management Manual and NPDES General Permit requirements. Stormwater outfalls would be permitted in accordance with the provisions for the primary associated use (as well as applicable general provisions), or as a utility (in the case the stormwater outfall is the primary use). |
| E-32 | 5.23 Utilities and Table 5-1 | 9 | Concerns are expressed about the prohibition on the installation of underground cable and raceways across all shorelines (marine, estuarine and riverine) in the SMP. The proposed SMP would affect existing and future service and reliability to electrical and wholesale telecom customers as well as the PUD’s ability to explore access to potential sources of renewable energy. The PUD is also concerned about the impact of required setbacks along streams and rivers and the need for a conditional use permit in these areas to the PUD’s ability to supply power to customers. | Comment noted. No change proposed. Per Table 5-1 in the SMP, utility cables, conduits, and corridors are permitted in all environments except Natural as a conditional use. This widespread allowance was in response to input from the PUD during the local adoption process regarding the PUD’s existing and future utility service needs. Where the PUD can demonstrate a need to cross shoreline jurisdiction and enter aquatic environments, and compliance with the SMP and other applicable County regulations, the County will work with the PUD through the conditional use process to ensure its continued ability to supply power to its customers. |
| E-33 | 5.23 Utilities and Table 5-1 | 9 | While the PUD is not interested in existing forms of ocean wave or wind generation, concern is expressed that the SMP would not allow for a new generating technology to | Comment noted. No change proposed. Temporary fixed structures associated with ocean energy may be permitted as a conditional use in the Coastal Ocean and Willapa Bay Estuary |

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| | | | be deployed in Willapa Bay or the Pacific Ocean that could benefit the community. | environments for a period of up to two years, with an option for a one year extension. Fixed structure uses associated with ocean energy are conditionally permitted in the Coastal Ocean High Intensity environment, and single-anchor systems are permitted in all aquatic environments. These provisions, together with policy 6.2.A.10, are intended to allow for development of ocean energy technology through pilot projects. Policy 6.2.A.11 states that the County will revisit these restrictions during the scheduled periodic review of the SMP to address new information and technology. |
| Section 6 Coastal Ocean Uses and Modifications | | | | |
| F-1 | 6.2 General Ocean Uses A. Policies (6.2.A.1) | 23 | The Washington Supreme Court in a recent decision on the Ocean Resource Management Act (ORMA) specifically called out legislative intent to be followed. Please revise as follows: A.1 Ocean uses and associated on-shore facilities should be located, designed and operated consistent with <u>intent of the legislature</u> , state guidelines, specifically WAC 173-26-360, as amended. | Comment noted. No change proposed. The SMA includes a liberal construction clause that enables local governments to use the permit process to assure that shoreline projects meet the fundamental intent of the SMA. ORMA requires this same approach. Therefore the County will consider the broad legislative intent of ORMA, which addresses broad environmental concerns surrounding certain ocean uses, during implementation of the SMP. |
| F-2 | 6.2 General Ocean Uses A. Policies (6.2.A.10) | 23 | Please revise as follows, in line with the recent Supreme Court decision. This revision may require adjustments to the use matrix. A. 10. In order to be more protective of existing ocean uses, including fishing, the county should adopt a broad prohibition on fixed structures in its coastal areas, including a strict prohibition on permanent fixed structures in the Coastal Ocean environment, to provide time for updated information regarding potential significant adverse impacts from new ocean uses on ecological functions and existing resource-based uses in these environments and recommendations for avoiding, minimizing and mitigating these impacts, <u>projects that pose excess RISK to the ecosystem and existing coastal uses can be completely prohibited</u> . Temporary fixed structures should be allowed for up to two years, with an option for a one-year extension. Single anchor systems should be allowed. | Comment noted. No change proposed. The proposed text does not substantively change the review process for projects proposed in the Coastal Ocean environment. Partially due to their inherent risk, oil and gas uses are prohibited. Risk is a consideration in several other uses, including ocean energy and ocean transportation. Projects that are determined by the County, through shoreline review, to pose excess risk to the ecosystem and existing coastal uses will not be granted permits. |

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| F-3 | 6.2 General Ocean Uses A. Policies (6.2.A.10) | 24 | A.10 should be revised: The county shall adopt a broad prohibition on fixed structures in its coastal areas, <u>other than for aquaculture</u> , including a strict prohibition on permanently fixed structures in the Coastal Ocean environment... (also see comment on 3.2.G.3.b above) | Comment noted. No change proposed. Please refer to the County’s responses to C-4 and E-4. |
| F-4 | 6.2 General Ocean Uses A. Policies (6.2.A.11) | 23 | Please revise as follows A.11. The county will revisit policies and regulations regarding fixed structures in the Coastal Ocean and Willapa Bay Estuary environments to address new information and technology, including analyses and recommendations resulting from the marine spatial planning process per RCW 43.372, during scheduled periodic reviews of this Program under RCW 90.58.080, <u>as also modified by Washington State Supreme Court Decision, 92552 – Quinalt Indian Nation, et al v. City of Hoquiam, et al.</u> | Comment noted. No change proposed. The RCW reference suggested for revision points to the timetable for local governments to review and update shoreline master programs. Per the County’s understanding, the court decision did not alter the state legislation, but clarified interpretation of legislative intent. |
| F-5 | 6.2 General Ocean Uses A. Policies | 20, 24 | The SMP contains broad policies that prohibit structures in coastal areas (see 6.2.A.10 and 3.2.G.3.b). “Prohibiting structures would constitute an outright ban on many forms of aquaculture in the County’s coastal areas. “Fixed structures” are defined as “structures fixed to the seafloor, via anchor, pile, or other methods.” Given the breadth of this definition, these policies could be interpreted to prohibit virtually any structure in the marine environment, including Willapa Bay, even those structures necessary for shellfish aquaculture operations. This clearly not the intent of the county as the use table specifically allows and permanent fixed structures throughout Willapa Bay (Table 5-1). Such a prohibition would conflict with the SMA, Ecology’s regulations, and the numerous federal and state policies that identify aquaculture as a preferred, water-dependent use...Recommend these policies be removed, at least with respect to aquaculture structures.” The only justification provided for the prohibition on fixed structures in coastal areas is “to provide time for updated information addressing the protection of ecological functions and existing resource-based uses in these environments.”(6.2.A.10) A general concern about the desire for additional information is inadequate support for this broad | Comment noted. No change proposed. The broad prohibitions for fixed structures in the Coastal Ocean and Willapa Bay Estuary environments reflect the County’s concern over the potentially significant impacts of future offshore uses on existing ocean uses that are integral to the County’s resource-based economy. Of particular concern are the potential environmental, navigation, and economic impacts of offshore ocean energy developments. Not enough information is yet known about potential future ocean energy uses to draft regulations that provide needed flexibility while being appropriately protective. The County and the Department of Ecology worked together to develop the adopted approach, codified in policies 6.2.A.10 and 11. For further discussion of the relationship of these prohibitions to aquaculture, please refer to the County’s responses to C-4 and E-4. |

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| | | | prohibition, at least with respect to aquaculture, which is a preferred use under the SMA. Moreover, it is an unnecessary and disproportionate response, given that a project proponent must show that all approval criteria are met for an aquaculture proposal. (Also see comment on 3.2.G.3.b) | |
| Section 8 Administration | | | | |
| G-1 | 8.4 Permit Application and Review | 22 | There is a minor typographical error in 8.4.E The correct name is “Shorelines_Hearings Board” | Comment noted. Thanks for catching this. The County will make this editorial change. |
| G-2 | 8.9 Federal Agency Review | 22 | There is a minor formatting error – the paragraphs should be A and B, not B and C. | Comment noted. Thanks for catching this. The County will make this editorial change. |
| Appendix A | | | | |
| H-1 | North River Float Houses Open Water Moorage Area | 26 | Appendix A is a visual depiction of the open water moorage area but the draft plan does not specifically identify this area to be regulated by Pacific County or identify its purpose. Although mentioned in Section 5.19, page 100, DNR would like to see detailed policies and regulations for residential uses on the North River before approving the SMP. WAC 332-30-171 requires that DNR confirm the need for an open water moorage area and the regulations required to meet the residential use rule. This has been recommended to the county on several occasions during development of the SMP. DNR is available to discuss suggested standards. | Comment noted. No change proposed. The County is aware of this issue and plans to address specific regulations and requirements within the contract when the County takes over the leases from WDNR. Per earlier conversations with WDNR, the County has until 2020 to address this and does not want to delay the SMP update. |
| Ordinance 180 Critical Areas and Resource Land | | | | |
| I-1 | Section 3. General Requirements E. Exemptions, #13 | 3 | Commenter is concerned about how the SMP (and the CAO) will apply in Surfside which has a covenant regarding tree heights. How will the SMP apply (or not) in this circumstance) and will property owners be penalized for complying with the covenants. Per covenants, the required tree height is 17’ and they have been told by an arborist that their trees will die if topped again. Will they be fined to remove the trees? Who grants permission – the county or the state? | Comment noted. No change proposed. The Surfside canals are not regulated under the SMP; therefore, only those Surfside properties within 200’ of the OHWM of the Pacific Ocean are within shoreline jurisdiction. Topping of trees for views is not allowed within shoreline jurisdiction. The Surfside canals are regulated under the CAO. Under that ordinance, topping of trees is not permitted <i>unless specified in an existing covenant effective prior to the effective date</i> of the Ordinance. The italicized language was added in response to concerns and comments from the Surfside community. There |

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| | | | | are no vegetated buffers required around the Surfside canals themselves; however, the CAO requires that a 25 foot vegetated buffer be maintained around any wetlands adjacent to the Surfside canals. |
| I-2 | Section 3. General Requirements E. Exemptions, #13 | 4 | Commenter believes the first sentence of the provision addressing minor pruning is reasonable but finds the last sentence which allows for tree topping if authorized by an existing covenant is not. It’s recommended the entire last sentence be deleted. | Comment noted. No change proposed. The last sentence was revised to recognize existing covenants based on input from the Surfside community. Given the small area to which it will apply (most of Surfside is outside of the jurisdiction of the CAO and SMP), the County found this an appropriate approach to ensure critical areas protection while avoiding conflict with existing property rights. |
| I-3 | Section 7 Critical Aquifer Recharge Areas B. Identification | 22 | Section 4.2.B.2 of the SMP adopts the CARL by reference to manage critical areas, critical area buffers and shoreline buffers in shoreline jurisdiction. These regulations must “ensure no net loss of shoreline ecological functions necessary to sustain shoreline natural resources” and “shall protect ecological functions and ecosystem-wide processes.” The CARL fails to comply with these requirements by failing to designate and protect the ground water based drinking water sources on which many Pacific County residents and businesses depend. It’s recommended the documented aquifers (alluvial deposits in valley flood plains, beach sands and associated marine deposits and terrace deposits) be designated and protected. | Comment noted. No change proposed. Please refer to the County response to A-4. |
| I-4 | Section 7 Critical Aquifer Recharge Areas C. Protection Standards | 22 | This section should be amended to protect aquifers from salt water intrusion and to comply with the requirements to protect ground water quantity, quality, and senior water rights holders. Language is recommended for addition to Subsection (7)(C) to address the limited water availability, salt water intrusion problems, and to comply with state law. <u>3. Evidence of water availability</u> <u>a. If a State of Washington Department of Health- (DOH) approved public water system is available, all new lots, buildings, or uses must connect to the system. In that case, the water purveyor shall provide the applicant with a letter stating purveyor has the ability to provide water. This letter must be submitted with an application for a division of land</u> | Comment noted. No change proposed. The suggested provisions were considered during the County’s adoption process for the CAO. The County already conducts salinity monitoring; the highest measurement to date was 62 mg/L (median ~12-14 mg/L), which is well below the 100 mg/L threshold mentioned. Rather than add significant information requirements for applicants, as suggested, the County revised critical area report requirements for critical aquifer recharge areas to include evaluation of potential effects related to saltwater intrusion. |

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| | | | <p><u>or a building permit application.</u></p> <p><u>b. If a DOH-approved public water system is not available, an applicant shall provide the following information with an application for a division of land or a building permit application:</u></p> <p><u>i. Documentation that the source includes sufficient water to serve the proposed use and any necessary fire flows.</u></p> <p><u>ii. Documentation that the applicant has the legal right to use the water.</u></p> <p><u>iii. If a permit-exempt well is proposed for the water source, the applicant shall identify all land in a common ownership currently and before any land divisions and document that the proposed use and any other uses of the land currently or formerly in a common ownership will not exceed the daily maximum withdrawal authorized by a permit-exempt well.</u></p> <p><u>4. Mitigation of salt water intrusion. In addition to the requirements of Subsection 7(C)(3), the following requirements apply within areas mapped by the State of Washington Department of Ecology as susceptible to salt water intrusion or within a 100 feet of groundwater source with chloride concentrations above 100 milligrams per liter (mg/l) of water:</u></p> <p><u>a. If a DOH-approved public water system is not available, the following requirements must be met in order to use a well as a water source:⁴</u></p> <p><u>i. The proposed use shall incorporate the water conservation measures from the list maintained by the Administrator applicable to the proposed development.</u></p> <p><u>ii. The chloride concentration from a laboratory-certified well water sample shall be submitted with building permit application or land division application.</u></p> <p><u>iii. The applicant must provide a scientific report prepared and stamped by a hydrogeologist documenting and providing evidence that there will not be further salt water intrusion as a result of the proposed withdrawal.⁵⁰ The Administrator may hire a hydrogeologist to review the report, its data, and methodology.</u></p> <p><u>ii. If the sample does not meet the U.S. Environmental Protection Agency secondary standard for chloride (250 mg/l) under the National Secondary Drinking Water</u></p> | <p>Please refer also to the Pacific County Board of Health Ordinance No. 8 (1/11/2011), which addresses water availability.</p> |

⁴ The formatting problem in this section originates from the comment letter.

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| | | | <p><u>Regulations, then it cannot be used as a water source for a land division or a building permit other than a single-family home on an individual lot.</u></p> <p><u>iii. If the sample does not meet the U.S. Environmental Protection Agency secondary standard for chloride (250 mg/L) under the National Secondary Drinking Water Regulations, then it may be used as water source for a building permit on an individual lot only if the following requirements are met:</u></p> <p><u>1. The applicant obtains a variance from WAC Title 173 standards granted by Ecology per WAC 173-160-106 for a new groundwater well; or for an existing groundwater well not subject to an Ecology variance, applicant must provide a hydrogeologic assessment as part of an aquifer recharge area report, which shall be transmitted to Ecology for review, demonstrating that use of the well does not cause any detrimental interference with existing water rights and is not detrimental to the public interest;</u></p> <p><u>2. The property owner shall record a restrictive covenant that indicates a chloride reading exceeded the U.S. Environmental Protection Agency secondary standard for chloride (250 mg/l) under the National Secondary Drinking Water Regulations.</u></p> <p><u>3. A source-totalizing meter shall be installed and reported to the Administrator annually.</u></p> <p><u>4. The well water shall be tested for its chloride concentration each year, with the results reported to the Administrator annually.</u></p> <p><u>b. If a DOH-approved public water system is not available, a qualifying alternative system that meets the requirements of the DOH and the Department of Ecology may be used as proof of potable water.</u></p> | |
| Supporting documents | | | | |
| J-1 | Shoreline Analysis Report (June 2015) | 13 | <p>The Nature Conservancy (TNC) provided comments on the SAR which were added as an addendum to the report. When can these comments be discussed and potentially added to the report?</p> <p>Sea Level Rise (SLR) is addressed multiple times in the draft SMP. It would be helpful to incorporate TNC’s background information on SLR into the main text of the report to make it easier to reference. If not possible, could a reference to the addendum be added within the main text where SLR is mentioned?</p> | <p>Comment noted. No change proposed. The SAR was finalized in June of 2015. TNC was an active member of the Shoreline Planning Committee and helped get the document to that point. The materials mentioned were added onto the SAR as addenda as a way to incorporate them into the finalized document. As addenda they are formally part of the SAR, and no further revisions are planned for the body of the report.</p> |

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| J-2 | Restoration Plan | 13 | <p>Page 13-14: Please add: Sea Grant is conducting probabilistic sea level rise projections for Southwest Washington. The projections are expected to be complete in 2018.</p> <p>Page 19 (Table 5): For the general actions to address sea level rise, consider encouraging restoration projects to consider how sea level rise will impact the site over time.</p> <p>Page 19 (Table 5): Add “coastal erosion” to the list of issues. An action to address the issue is coastal habitat protection and enhancement.</p> | <p>Comment noted. No change proposed. Page 13-14: The SLR mapping sources mentioned are intended as examples; the list is not exhaustive. The County will look for this resource from Sea Grant in 2018.</p> <p>Page 19 (Table 5): Coastal erosion is addressed under “Sediment Transport and Disposal.” The suggestion for restoration projects is addressed under “Assess characteristics and impacts of climate change on Pacific County coast ecosystems.”</p> |